

Appl. No. 10/603,126  
Amdt. dated June 23, 2005  
Reply to Office Action of May 16, 2005

### REMARKS

Claims 1-4, 6, 10 and 16-27 have been examined. Claims 16-20 have been canceled, without prejudice pursuant to a restriction requirement. Claims 1, 2, 6 and 27 have been amended, and new claim 28 has been added. Reconsideration of the claims, as amended, is respectfully requested. Counsel for the Applicant wishes to thank the Examiner for the interview of June 22, 2005. An appropriate interview form has been prepared by the Examiner.

#### Election/Restriction

Claims 16-20 have been canceled, without prejudice, pursuant to a restriction requirement.

#### Claim Objections

Claim 6 was objected to for depending from a canceled claim. Claim 6 has been amended to overcome this objection.

#### Claim Rejections - 35 U.S.C. §103

Claims 1, 6, 21, 22, 24, 25 and 26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Seidel in view of Aguerre. This rejection is respectfully traversed in part and overcome in part.

As discussed in the interview, neither Seidel nor Aguerre teach or suggest a footwear piece where a strap section is connected to a base section that is constructed of a moldable foam material so that friction forces maintain the strap section in essentially any orientation. Indeed, Aguerre teaches away from this by using a nylon washer so that no contact is made between the two parts. (See col. 9, lines 15-34). Hence, claim 1 is distinguishable without amendment. However, in order to further clarify this feature, claim 1 has been amended to recite that both the strap section and the base section are constructed of a moldable foam material and that these two elements are in direct contact with each other at attachment points

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where the two are pivotally attached. Since the cited art fails to teach the use of a strap section and a base section that are constructed of a moldable foam material and that are in direct contact with each other at attachment points, claim 1 is distinguishable and in condition for allowance. Claims 6, 21, 22, 24, 25 and 26 depend from claim 1 and are distinguishable for at least the same reasons.

Claims 2-4 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the references applied to claim 1 and in view of Matis. Claims 2-4 depend from claim 1 and are distinguishable for at least the reasons previously recited.

Claims 10, 23 and 27 have been rejected under 35 U.S.C. §103(a) as being unpatentable in view of the references applied to claim 1 in view of Lamstein. Claims 10 and 23 depend from claim 1 and are distinguishable for at least the same reasons.

Independent claim 27 also recites that the base section under the strap section are constructed of a moldable foam material and is therefore distinguishable for at least the same reasons recited in connection with claim 1. Further, claim 27 has been amended to recite an upper strip in the vertical portion of the upper and a lower strip of the sole that are separated by a line. Support for such a limitation may be found at, for example, in Fig. 2. Such strips are not taught or suggested by the cited art, nor is a decorative pattern of raised bumps on the upper. As such, claim 27 is distinguishable and in condition for allowance.

#### New Claim

Claim 28 has been added and includes a base and a strap that are both constructed of a moldable foam and which are in direct contact at plastic connectors which connect them. Hence, claim 28 is distinguishable over the cited art.

#### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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